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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,300	03/23/2001	Georg Muenzel	00 P 7515 US 01	8037
7590 11/01/2007				
Siemens Corporation Intellectual Property Department 186 Wood Avenue South Iselin, NJ 08830		EXAMINER VU, TUAN A		
		ART UNIT PAPER NUMBER 2193		
		MAIL DATE DELIVERY MODE 11/01/2007 PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/822,300

Applicant(s)

MUENZEL, GEORG

Examiner

Tuan A. Vu

Art Unit

2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-52.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: As for the indefiniteness rejection, the Applicant has not provided how the Disclosure enables proper teaching that would remedy to the grounds of rejection as set forth by the Office Action; i.e. in terms of supporting details so to enable one to make effective use of the intention to 'control' as claimed; the rejection remains unresolved. As far as claim 1, it is clear that Dole has methodology laid out as block design expressed via an user interface; and capturing this, Dole teaches using a XML format whereby these design blocks and steps are embedded in tags. The argument is not persuasive. As for claims 5, 17, 19, the arguments fall under the same ambit of 'converting' some industrial automation identifiable as internal representation; and as in claim 1, internal representation is construed as GUI blocks to represent a methodology to capture, such design blocks being formulated by Dole as extensible markup format. Thus the arguments fail to overcome Dole because from a Gui representation of blocks, Dole has another format to represent the design: to-XML converting. The emphasis of the argument for claims 23, 39 revolves around this 'converting' limitation; and likewise for claims 41-42, there is not sufficient specifics in the claim language that would preclude the XML approach by Dole from reading onto the claims. For claims 44, 46, 51, the arguments appear to be mere allegation without pointing out how the cited parts and corresponding rationale used in the rejection would be inapposite in meeting the claim language. The previous Office Action has expressly addressed each and all arguments from the Applicant with respect to a prima facie case (i.e. CFR 1.111b) of a proper Response. Pending any action to remedy the claim language impropriety, and indefiniteness, the subject matter as previously submitted is deemed not in condition for allowance for the observations made above; and the Finality of the rejection is deemed proper until the Applicant can overcome it with a proper and compliant type of rebut. .

